

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 30 1993

In the Matter of

Revision of Part 97 of the Rules
Governing the Amateur Radio Services
Requiring VECs to Designate a Contact
VE at Each Amateur Operator License
Examination Session to Certify
Examinee's Application Forms

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RM-8301

To: The Commission

COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED

The American Radio Relay League, Incorporated (the League), the national non-profit association of amateur radio operators, by counsel and pursuant to Section 1.405(a) of the Commission's Rules, hereby respectfully submits its comments in response to the Petition for Rule Making (the Petition), filed on or about July 15, 1993 by the "Rules Committee of the National Conference of Volunteer Examiner Coordinators" (NCVEC).¹ Public Notice of the Petition was given by the Commission July 29, 1993, per Report No. 1955. Thus, these comments are timely filed. The petition proposes that a contact VE (CVE) must be appointed for each examination session by the coordinating VEC, and that CVE must bear the

¹ The League participates in the annual meeting of the national conference of VECs, and participates with other VECs in question pool maintenance and the like. The League did not, however, participate in any decision of the NCVEC that led to the filing of this petition.

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"overall" responsibility for the proper conduct and necessary supervision of the examination, as among the three Ves per test session. In response to this proposal, the League states as follows:

1. The League opposes any compromise or modification of the concept of joint and several liability of the three volunteer examiners involved in an amateur radio examination test session. There are currently required three Ves per test session, each of whom has joint and several responsibility for the proper conduct of the test session. See, 47 C.F.R. §97.511(b) and (c). There is no evidence that the three-examiner requirement is overly burdensome or limits the availability of test sessions.² Rather, the requirement contributes significantly to the integrity of the test sessions, since three examiners, each of whom are individually responsible for the proper conduct of the session, are each

² The League finds it difficult to determine what the problem is that the petition is intended to solve. If the appointment of a "lead" VE is simply consistent with good management practice to insure proper delegation of administrative functions, then a Commission rule is not necessary. Nor is it necessary that the public contact person for a VE test session even be one of the three examiners. The League, for example, uses a "VE Team Contact Person", who is the VE program's local contact with the general public, and who handles the numerous questions that candidates ask before an examination session, such as what time the test session begins, how to get to the test site, etc. This person would also receive Form 610 applications and examination fees from preregistrants. It is hardly necessary for this person to be among the three accredited examiners. The League also urges its examiners to designate a "Team Liaison"; the person who receives the confidential examination materials from the VEC for a particular examination session. The issue of a contact VE should be left to the discretion of the VEC, and not part of a regulatory requirement.

separately obligated to insure that no irregularities are present. The requirement also contributes to the perception of integrity of the test session, which, the League has noted repeatedly over time, is as important as the actual integrity of the system.

2. In the Report and Order, FCC 83-433, 48 Fed. Reg. 45652, released September 29, 1983, which implemented the Commission's statutory authority to utilize volunteer examiners, the Commission reviewed the comments, most of which addressed the need for three examiners. The Commission had proposed in the Notice of Proposed Rule Making in Docket 83-27 that there be three examiners per test session, one of whom, the "team chief", must be an Extra Class licensee. That concept was abandoned, however, in favor of having three examiners, each of which is responsible for the proper conduct of the examination:

The use of three examiners provides for cross-checking to assure the correctness of answers to examination questions, to assure proper completion of license applications, and to minimize the likelihood of any possible fraud or abuse.

The ARRL commented that rather than requiring team chiefs to keep examination answer sheets, we should have Volunteer-Examiner Coordinators (VEC's) act as their repository to allow VECs to more fully discharge their function of reviewing the suitability of questions. We agree, and we have made this change in the rules we are adopting. With the elimination of this function, "team chiefs" would no longer have any specified duties separate and apart from the other examiners. We are therefore deleting the concept of a "team chief" from the rules.

Id., 48 Fed. Reg. at 45653.

3. The concept of joint and several liability has worked well in enforcement situations, and it has been held that each examiner

in an examination test session is responsible for all portions of the test session. In Nomal Vizcarrondo, 65 RR 2d 1712 (1989) the Chief, Special Services Division, rejected a claim by a VE that an examination irregularity was the fault of other VEs in a three-VE team:

Rivera De Jesus also argued that Santo Vazquez, as VE "in charge of the session", had sole responsibility for the integrity of an examination session. This view is incorrect. The Commission does not recognize such a distinction between VEs. All administering VEs are equally responsible for the integrity of each examination session. See, §97.33.³

65 RR 2d at 1717.

4. The Commission should not surrender the benefits of the three-examiner concept by diluting the joint and several liability of the three-examiner teams. This concept serves to insure the integrity of the examinations, and the perception of the integrity of the system as well. It discourages any unilateral efforts of an individual who might otherwise be tempted to participate as a VE in an irregular examination session, and at the same time it encourages cross-checking of the examinations for accuracy. It should be left to the individual VE teams whether they wish to designate a team leader to organize the examination administration, but in no case should the concept of joint and several liability of

³ That Section, dealing with Volunteer Examiner Conduct, is now §97.517, and is essentially the same: "No VE may administer or certify any examination by fraudulent means or for monetary or other consideration including reimbursement in any amount in excess of that permitted. Violation of this provision may result in the revocation of the VE's amateur station license and the suspension of the VE's amateur operator license."

the three-examiner team members be diluted, nor should the Commission propose any plan which would reduce the required number of individual examiners for a test session⁴.

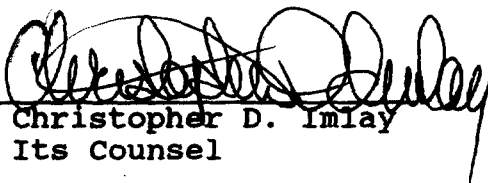
Therefore, the foregoing considered, the American Radio Relay League, Incorporated respectfully requests that the instant Petition of the NCVEC group be dismissed or denied.

Respectfully submitted,

THE AMERICAN RADIO RELAY
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⁴ Though the petitioner proposes to retain the three-VE concept, but also to require the designation by the VEC of a contact VE as the person with "overall" responsibility for the integrity of the test session, this places the VEC in the difficult position of having to vouch (at least implicitly) for the integrity of the CVE. This is a function that is presently self-regulating, merely by virtue of the concept of joint and several liability of the three VEs. For the VEC to designate one of those three as the person with responsibility for the session, this requires the evaluation by the VEC of the integrity of that CVE, since there are no local checks and balances in place at the test session.

CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager of the law firm of Booth, Freret & Imlay, do certify that copies of the foregoing COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED were mailed via U. S. Mail, postage prepaid, first class, this 30th day of August, 1993, to the offices of the following:

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Margaret A. Ford